

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN STARLING : ORDER OF REVOCATION
_____ : DOCKET NO: 499-01/99-206

At its meeting of January 21, 1999, the State Board of Examiners reviewed information received from the Office of Criminal History Review pursuant to N.J.S.A. 18A:6-7.3 regarding John Starling. The record indicated that in 1980 Starling was convicted of marijuana possession for which he was fined \$125. In 1982, he was arrested for marijuana possession and was sentenced to 180 days' confinement, two years' probation and fined \$25. In 1983, Starling was arrested for possession of dangerous drugs and sentenced to 180 days' confinement. As a result of those convictions, Starling was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* He did not challenge the accuracy of his criminal history record. In addition, on his application for certification, Starling indicated that he had never been convicted of a crime. Upon review of the above information, at that January meeting the State Board of Examiners voted to issue an Order to Show Cause to Respondent. Starling currently holds a Teacher of Physical Education certificate.

The Order to Show Cause was mailed to Respondent by regular and certified mail on February 24, 1999. The Order provided that if Starling desired to file an Answer to the Order his Answer must be filed within 20 days. Starling filed his response on March 19, 1999. In his response, Starling admitted that his criminal history record was accurate. He denied that he was disqualified from public school employment. (Answer, ¶¶ 3-5). He also included a letter with his Answer which detailed all of the military and professional accomplishments he had had since

his arrests over 15 years before. (Letter from John Starling to Carl Carabelli, dated December 12, 1998).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on July 28, 1999, a hearing notice was mailed by regular and certified mail to Starling. The notice explained that since it appeared no material facts were in dispute regarding his criminal history record, Starling was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualification warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Starling submitted his response to the Hearing Notice on September 1, 1999. In that response he stated that his sentences as listed in the Order to Show Cause were inaccurate; he claimed that for his 1982 offense he was only jailed for 10 days and only for 60 days following his 1983 conviction. (Hearing Response, p.1). Starling also argued that he should be allowed to show rehabilitation pursuant to N.J.S.A. 18A:6-7.1(e). (Hearing Response, pp. 3-4). Finally, he claimed that he should have a hearing on the issue of why he had misrepresented his offenses on his certification application. (Hearing Response, pp. 4-5).

At its meeting of November 4, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to respondent's offenses were in dispute.

The issue before the State Board of Examiners in this matter, therefore, is to determine whether Respondent's disqualification, which was predicated on the same offenses as were set

forth in the Order to Show Cause, as well as his misrepresentation on his certification application, present just cause to act against Respondent's certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that they do.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq. in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. In 1989 the Legislature specifically amended the statute to include all convictions concerning controlled dangerous substances as disqualifying offenses. See, N.J.S.A. 18A:6-7.1b. This amendment was a clear recognition on the part of the Legislature that individuals with such drug convictions should not be permitted to be in contact with school-aged children. The consistent and long-standing policy of this State is to eliminate the use of illegal drugs. See, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. To that end, the State and the schools herein have engaged in extensive educational efforts to warn the citizenry of the perils of illicit drugs. See, In the Matter of the Certificate of Barbara Corwick, OAL Dkt. No. EDE 3562-87, State Board of Examiners decision (March 24, 1988). Those who violate this deep-rooted policy, *whether by the use of drugs or their manufacture and distribution*, endanger the public welfare; they cannot be entrusted with the responsibility of caring for school aged pupils. Accordingly, the State Board of Examiners finds that Starling's disqualification from service in the public schools of this State because of his multiple convictions for drug-related offenses is conduct unbecoming a certificate holder and provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense warrants his bar from service in public schools should not be

permitted to retain the license that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Respondent's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Moreover, notwithstanding Starling's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Starling has accomplished much during successful military and teaching careers, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification. In addition, contrary to his citation to N.J.S.A. 18A:6-7.1(e), that statute no longer allows an individual to show rehabilitation once he has been disqualified from public school employment. Rather, the only avenue of relief currently available is a challenge to the accuracy of the criminal history record, a record that Starling has admitted is accurate in this case. N.J.S.A. 18A:6-7.1(e).

Finally, Starling's contention that he should have a hearing as to why he misrepresented his convictions on his certification application is rejected. Since his disqualification, without more, can serve as the basis for the revocation of his certificate, the issue of his misrepresentation, even if resolved in his favor, would be of no import.

Accordingly, it is therefore ORDERED that John Starling's Teacher of Physical Education certificate be revoked on this 4th day of November 1999. It is further ORDERED that Starling return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: January 14, 2000

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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